

Judge Burgess

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

UNITED STATES OF AMERICA,

Plaintiff,

v.

WALTER BOYD McILWAIN,  
ALEJANDRO BARRAGAN,  
RICHARD DENNIS MILLER,  
CHARLES CLAY WINANS,  
BRANDON LEE PENN, and  
JOSE MENDOZA,

Defendants.

NO. CR05-5504FDB

AMENDED ORDER GRANTING  
CONTINUANCE OF TRIAL  
AND RELATED DATES

THIS MATTER comes on before the Court on the motion to continue the trial date raised by counsel for defendants Brandon Lee Penn, Walter Boyd McIlwain, Alejandro Barragan, Richard Dennis Miller, Charles Clay Winans and Jose Mendoza. The defendants counsel having agreed to the continuance as well as counsel for the government, the court finds that:

1. The trial in this matter is scheduled for September 6, 2005, at 9:00 a.m. The pretrial cut off date was set at August 1, 2005, and the pretrial conference was scheduled for August 17, 2005.

2. Discovery was not received until August 1, 2005, there is a need for substantial investigation. Counsel will need time to prepare for trial and all counsel agree that to be adequately prepared, the trial date and the pre-trial motions date and conference dates should be extended.

1 3. The defendants understand that to be adequately represented that a continuance is  
2 necessary.

3 4. The government consents to the continuance.

4 5. The ends of justice outweigh the best interests of the public and the defendants to a  
5 speedy trial. Failure to grant the continuance would deny counsel for defendants adequate time to  
6 effectively prepare for trial.


7 6. As to defendant Alejandro Barragan, who agreed to a trial continuance and to sign a  
8 waiver, then changed his mind and decided not to sign the Speedy Trial Waiver, the Court finds  
9 that his time is excluded and that the ends of justice served by taking this action outweigh the best  
10 interest of the defendant in a speedy trial, pursuant to 18 U.S.C. 3161(h)(7) and (h)(8)(B)(ii)

11 NOW, THEREFORE,

12 IT IS HEREBY ORDERED that the trial date is continued from September 6,  
13 2005 to December 5, 2005. The resulting period of delay from September 6, 2005, up to  
14 and including the new trial date of December 5, 2005, is hereby excluded for speedy trial  
15 purposes under 18 U.S.C. § 3161(h)(8)(A) and (B).

16 Pretrial motions are due no later than September 14, 2005.

17 DATED this 1<sup>st</sup> day of September 2005.  
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22 FRANKLIN D. BURGESS  
23 UNITED STATES DISTRICT JUDGE

24 Presented by:

25  
26 s/ Gregory A. Gruber  
27 GREGORY A. GRUBER  
28 Assistant United States Attorney

1 /s/ Roger A Hunko

2 Roger A Hunko

3 Attorney for Defendant

4 /s/ Linda R Sullivan

5 Linda R Sullivan

6 Attorney for Defendant

7 /s/ Charles A Johnston

8 Charles A Johnston

9 Attorney for Defendant

10 /s/ Keith Alexander MacFie

11 Keith Alexander MacFie

12 Attorney for Defendant

13 /s/ Michael Edward Schwartz

14 Michael Edward Schwartz

15 Attorney for Defendant

16 /s/ Phil L Brennan

17 Phil L Brennan

18 Attorney for Defendant

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